

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

ANTON KATZ,

Plaintiff,

Civil Action No.: 19-cv-2855

-against-

TESLA,

Defendant.

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §1446, §1441(a), and §1332, Defendant, Tesla, Inc. (incorrectly captioned as “Tesla” and hereinafter referred to as “Tesla”), removes to this Court the above action, pending as Index No.: 504215/2019 in the Supreme Court of the State of New York County of Kings. As grounds for removal, Tesla states:

BACKGROUND

1. This civil action was commenced by Plaintiff on February 26, 2019, and is pending in the Supreme Court of the State of New York County of Kings, a court located within this District, under Index No. 504215/2019.

2. Tesla acknowledged service of Plaintiff’s Complaint on April 16, 2019, less than thirty (30) days prior hereto, and therefore, Tesla is filing this Notice of Removal within thirty days of service of this action. *See* 28 U.S.C. §1446(b)(1).

3. This Court has jurisdiction of this action under 28 U.S.C. §1332, *et seq.* As such, removal is proper as this Court has diversity jurisdiction.

4. Venue is proper in this Court because the Supreme Court of the State of New York County of Kings, where this case was originally filed, is in this District. *See* 28 U.S.C. § 1446(a).

5. Pursuant to 28 U.S.C. § 1446(d), Tesla is serving a copy of this Notice of Removal on all counsel of record. Notice of the filing of this Notice of Removal will be filed with the Clerk of the Supreme Court of the State of New York County of Kings.

6. Pursuant to 28 U.S.C. § 1446(a), “a copy of all process, pleadings, and orders served upon” Tesla prior to the filing of this Notice of Removal is attached as Exhibit “A.”

7. The diversity of citizenship requirement under 28 U.S.C. § 1332(a) is met.

8. Plaintiff, Anton Katz, is a citizen of New York. *See* Exhibit A at ¶1.

9. For removal purposes, a corporation is “deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.” 28 U.S.C. § 1332(c)(1).

10. Tesla is incorporated under the laws of the State of Delaware and maintains its headquarters and principal place of business in the State of California.

11. Tesla is a citizen of Delaware and California within the meaning of 28 U.S.C. §1332.

12. Therefore, diversity of jurisdiction exists pursuant to 28 U.S.C. § 1332.

13. Removal is proper under 28 U.S.C. § 1332(a) as the amount in controversy exceeds \$75,000. *See* 28 U.S.C. § 1332.

14. The Complaint alleges two causes of action: 1) violation of the New York Motor Vehicle Warranty Act (New York General Business Law § 198-a(a)(1) et. seq.), and 2) violation of the New York Unfair Trade Practice Act (N.Y. Gen. Law § 349). *See* Exhibit A.

15. Plaintiff generally seeks a broad based variety of damages. *See id.* Plaintiff's Complaint seeks damages "in an amount equal to the total lease cost, plus all collateral charges and attorney fees," and "a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction; money damages in whatever amount Plaintiff is found to be entitled, plus any interest, costs, incidental and consequential damages; equitable relief including, but not limited to, repurchase or replacement of the subject vehicle, and in the event this Court finds Plaintiff is not entitled to repurchase or replacement, any other relief this Court deems just; and all attorneys' fees and costs. *See id.*

WHEREFORE, Defendant, Tesla, Inc. (incorrectly captioned as "Tesla"), effects the removal of this action from the Supreme Court of the State of New York County of Kings to the United States District Court for the Eastern District of New York.

LAVIN, CEDRONE, GRAVER, BOYD & DiSIPIO

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